IN SENATE OF THE UNITED STATES.

MAY 16, 1838.

Read, and ordered to be printed, and that 30,000 additional copies be furnished for the use of the Senate.

Mr. WRIGHT submitted the following

REPORT:

[To accompany the joint resolution S. No. 11.]

The Committee on Finance, to which was committed, on the 2d instant, the joint resolution "relating to the public revenue and dues to the Government," in the following words: "Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That no discrimination shall be made as to the currency or medium of payment in the several branches of the public revenue, or in debts or dues to the Government; and that, until otherwise ordered by Congress, the notes of sound banks, which are payable and paid on demand in the legal currency of the United States, under suitable restrictions, to be forthwith prescribed and promulgated by the Secretary of the Treasury, shall be received in payment of the revenue and of debts and dues to the Government, and shall be subsequently disbursed, in a course of public expenditure, to all public creditors who are willing to receive them," respectfully submit the following report:

The resolution has three distinct objects: first, to prohibit any discrimination in "the currency or medium of payment" in which all public dues shall be collected and received; second, to establish, by the force of law, that "currency or medium of payment" to be "the notes of sound banks, which are payable and paid on demand in the legal currency of the United States;" third, to compel the disbursement of those bank notes "to all public creditors who are willing to receive them." The various parts of it, therefore, relating to these several objects, will be considered in the order they hold in the resolution.

The first clause, prohibiting discrimination in the currency, or medium of payment, for the public dues, is in these words:

"*That no discrimination shall be made, as to the currency or medium of payment in the several branches of the public revenue, or in debts or dues to the Government.*"

In so far as any public interest may be supposed to be involved in the action of the Senate upon this branch of the resolution, it would seem to the committee to be sufficient to say that this body has already adopted,

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and sent to the House of Representatives, as a part of a law, a provision supposed to have the same general object, though not in the form here presented. The journal of the Senate shows that, on the 24th day of March last, a bill entitled "An act to impose additional duties, as depositaries, upon certain public officers, to appoint receivers general of public money, and to regulate the safe keeping, transfer, and disbursement of the public moneys of the United States," being under consideration, an amendment, to stand as the twenty-third section of that bill, was offered in the words following, viz:

"SEC. 23. *And be it further enacted, That it shall not be lawful for the Secretary of the Treasury to make, or to continue in force, any general order which shall create any difference between the different branches of revenue, as to the funds or medium of payment, in which debts or dues accruing to the United States may be paid.*"

The same journal shows that this amendment, as here given, was, on the same day, adopted by the Senate, by a very strong vote, was thus made a part of the bill to which it was proposed as an amendment, and that the bill, including this amendment as its 23d section, finally passed the Senate on the 26th day of March last, and was sent to the House of Representatives, with a request that that House would concur therein.

That these provisions are similar in the influence proposed to be exerted upon the currency of the public Treasury, in the object proposed to be accomplished, will not be questioned; and that a large majority of the Senate are favorable to the principle embraced in both, is proved by the references to the Senate journal, which have just been made. With this evidence before them, the committee would not consider it proper in them, were they otherwise disposed to do so, to offer arguments against this strongly expressed opinion of the body; but, when the principle has been adopted, when it has been put in form, and made a part of a law, and when the Senate has, in this manner, done all it can do, without the action of the other legislative branches of the Government, to make it a part of the law of the land, they would not feel excusable in omitting to bring this fact to its notice, nor can they believe that doing so will be construed into a disposition to resist its ascertained sense and feeling.

The necessity for this legislation has been referred, in the debates in the Senate, and elsewhere, to the existence of the Treasury order of the 11th of July, 1836, making a discrimination between the currency, or medium of payment, to be received for the public lands and that to be received in other branches of the public revenue, and for other dues to the Government. This order is believed by the committee to have been the first and only discrimination, by the order of the Treasury Department, made either permanent or general, as to the currency, or medium of payment, receivable between the different branches of the public revenue; and hence, no doubt, the order has engrossed attention, and its repeal has been considered the sole object and purpose of the provision under consideration.

As, however, the reference calls upon the committee for a careful examination of the laws in any way affecting the currency of the public Treasury, and any medium of payment, made receivable by law, in any branch of the public revenue, and as the legislation in relation to the public lands is found to contain various and important provisions relative to the media of payment in this branch of the revenue, they have considered it proper

to review those laws under this head, and to see how far any of their provisions may be material to this part of the inquiry.

The first general law to regulate the sale of the public lands which has met the notice of the committee, is an act passed on the 18th day of May, 1796, entitled "An act providing for the sale of the lands of the United States in the Territory northwest of the river Ohio, and above the mouth of the Kentucky river." This act fixed the price of the public lands at two dollars per acre, but did not specify the currency, or medium of payment, in which purchases were to be made. The law of 1789, therefore, which required all payments derivable from the customs to be made in gold and silver coin, and the 10th section of the charter of the old Bank of the United States, passed in 1791, which declared that the bills, or notes, of the corporation, payable on demand, in gold and silver coin, should be receivable in all payments to the United States, must, as the committee suppose, have been held to prescribe the currency, or medium of payment, for the public domain, as well as other public dues.

On the 3d of March, 1797, another act was passed, entitled "An act to authorize the receipt of evidences of the public debt in payment for the lands of the United States." This act provided "that the evidences of the public debt of the United States, should be receivable in payment for any of the lands which might be sold in conformity to the act entitled 'An act providing for the sale of the lands of the United States in the Territory northwest of the Ohio river, and above the mouth of the Kentucky river,'" being the act of 1796, last above refered to. Here, then, evidences of the public debt were added to gold and silver coin, and the bills and notes of the Bank of the United States, payable on demand in gold and silver coin, as the currency, or media, in which payment might be made for the public lands.

The next act which seems to be material to this point, was passed on the 10th day of May, 1800, and was entitled "An act to amend the act entitled 'An act providing for the sale of the lands of the United States in the Territory northwest of the Ohio, and above the mouth of Kentucky river.'" This act provided for the establishment of land offices within the land districts; for the appointment of registers of the land offices and of receivers of public money for lands; for the sale of the lands within the land districts, both at public and private sale, and in sections and half sections; and in many other respects established what is the present land system of the United States. The first clause of the 5th section of this act is in the following words:

"SEC. 5. *And be it further enacted, That no lands shall be sold by virtue of this act, at either public or private sale, for less than two dollars per acre, and payment may be made for the same by all purchasers, either in specie, or in evidences of the public debt of the United States, at the rates prescribed by the act entitled 'An act to authorize the receipt of evidences of the public debt in payment for the lands of the United States.'*"

Here is a new enumeration of the currency, or medium, in which payments were to be made for the public lands, and which does not include the bills, or notes, of banks of any description. It is confined to "*specie*" or "*evidences of the public debt of the United States.*" If, therefore, any other medium of payment was received while this continued to be the law of the case, it must have been so received, as the committee suppose, upon

the responsibility, and at the risk, of the officer receiving the payment, and not because it was sanctioned by the law.

On the 18th of April, 1806, an act was passed entitled "An act to repeal so much of any act, or acts, as authorize the receipt of evidences of the public debt in payment for lands of the United States; and for other purposes relative to the public debt." The first clause of the first section of this act is in the words following:

"SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of any act, or acts, as authorize the receipt of evidences of the public debt, in payment for the lands of the United States, shall, from and after the thirtieth day of April, one thousand eight hundred and six, be repealed.*"

The section proceeds with two provisos, saving the rights of persons who had purchased lands, with the right to make the payments therefor in evidences of the public debt, prior to the passage of the act, and holding out inducements to those indebted for lands to make the payments in advance, and in money, but in no way affecting the repeal above quoted. After the 30th day of April, 1806, therefore, with the exception as to purchases which had been previously made, evidences of the public debt of the United States were not a medium in which payments for the public lands could be made, but the law of 1800, above referred to, with this modification, continued to be the law regulating these payments. If, then, the committee have been correct in their construction of that law, and its influence upon the currency, or medium of payment, for the public lands, this modification reduced that currency, or medium, to "specie" only.

No further change is found to have been made in the laws, in this respect, until the year 1812. On the 30th day of June, of that year, a law was passed, entitled "An act to authorize the issuing of Treasury notes." The first clause of the sixth section of that act is in the following words:

"SEC. 6. *And be it further enacted, That the said Treasury notes, wherever made payable, shall be every where received in payment of all duties and taxes laid by the authority of the United States, and of all public lands sold by the said authority.*"

This law added a new medium of payment for the public lands, to wit: Treasury notes, issued by the Government itself, and for the payment of which, with the interest thereupon, its faith was solemnly pledged. From this time, therefore, the public lands might be paid for in either "*specie*" or "*Treasury notes*," and it was at the option of the purchaser, by the law, to make his payments in the one or the other medium, as his interest, or convenience, or pleasure, should dictate.

On the 25th day of February, 1813, another law was passed "to authorize the issuing of Treasury notes for the service of the year one thousand eight hundred and thirteen," and, on the 4th day of March, 1814, another similar law was passed "to authorize the issuing of Treasury notes for the service of the year one thousand eight hundred and fourteen," both of which last-mentioned laws contained a provision precisely similar, in substance and in terms, to that above quoted from the law of 1812.

On the 31st day of March, 1814, an act was passed, entitled "An act providing for the indemnification of certain claimants of public lands in the Mississippi Territory." By this act the President of the United States

was directed to cause to be issued, from the Treasury, certificates of stock to certain claimants to lands under "the Upper Mississippi Company," under "the Tennessee Company," under "the Georgia Mississippi Company," under "the Georgia Company," and under "Citizens' rights," so called, for amounts and upon conditions prescribed in the act; and the fourth section of the act is in the following words:

"SEC. 4. *And be it further enacted, That the said certificates of stock shall be receivable in payment of the public lands, to be sold after the date of such certificates, in the Mississippi Territory: Provided, That on every hundred dollars to be paid for such lands, ninety-five dollars shall be receivable in such certificates, and five dollars in cash: Provided, That no person or persons, making payment for lands in certificates authorized to be issued by this act, shall be entitled to the discount for prompt payment now allowed by law to purchasers of public lands.*"

Here was a new medium of payment for public lands in the Mississippi Territory, which authorized purchasers of lands from the United States, there subject to the limitations of the act, to make payment either in "specie," or in "Treasury notes," or in these "certificates of stock," subsequently more familiarly known as "Mississippi land scrip." In relation to all the public lands, other than those in the Mississippi Territory, as it then existed, the currency, or medium, in which payments were to be made, was left unchanged and continued to be regulated by the laws before referred to, and to be "specie," or "Treasury notes."

By an act, passed on the 26th day of December, 1814, entitled "An act supplemental to the acts authorizing a loan for the several sums of twenty-five millions of dollars and three millions of dollars," a further emission of Treasury notes was authorized to the amount of ten and a half millions of dollars, and the following is a copy of the first clause of the third section of the act.

"SEC 3. *And be it further enacted, That the Treasury notes to be issued by virtue of this act, shall be prepared, signed, and issued, in the like form and manner; shall be reimbursable at the same places, and in the like periods; shall bear the same rate of interest; shall, in the like manner, be transferable; and shall be equally receivable, in payments to the United States, for taxes, duties, and sales of the public lands, as the Treasury notes issued by virtue of the act of Congress, entitled 'An act to authorize the issuing of Treasury notes for the service of the year one thousand eight hundred and fourteen,' passed on the fourth day of March, in the year aforesaid.*"

On the 24th day of February, 1815, a further act was passed, entitled "An act to authorize the issuing of Treasury notes for the service of the year one thousand eight hundred and fifteen," the first clause of the sixth section of which is in the words following:

"SEC. 6. *And be it further enacted, That the Treasury notes, authorized to be issued by this act, shall be every where receivable in all payments to the United States.*"

Neither of the two last mentioned acts made any change in the character of the currency, or medium of payment, authorized by law to be received for the public lands, at the time of their passage, but merely added to the

quantity of that medium which rested upon the faith and credit of the Government. Still, therefore, "specie" and "Treasury notes" were receivable for all lands, wherever situated, and "specie," "Treasury notes," and "Mississippi land scrip," for that portion of the public lands situate within the Mississippi Territory.

This brings the examination, in point of time, up to the charter of the second Bank of the United States, in 1816; and it may be proper here to remark, that, in case the committee have been mistaken as to the force, effect, and true construction of the act of the 10th of May, 1800, and that act did not exclude the bills and notes of the old Bank of the United States from being a legal medium for the payment for lands, still, inasmuch as the charter of that bank expired on the 3d day of March, 1811, by its own limitation, and as the 10th section of the charter, which made its bills and notes receivable for any description of public dues, was repealed on the 19th day of March, 1812, by an act of Congress passed for that sole purpose, it will be seen that this difference of construction of the act of 1800, if admitted, will only affect the currency, or medium, in which the public lands might be paid for, up to the 3d of March, 1811, or, at most, up to the 19th of March, 1812, when that bank had ceased to exist as a bank, and its bills and notes to be receivable by law for any portion of the public dues. At the period of time of which the committee now speak, therefore, the currency, or media, made receivable by law in payment for the public lands, was as last above enumerated.

The act to charter the late Bank of the United States was passed on the 10th day of April, 1816, and the 14th section of that charter made the bills and notes of the bank, payable on demand, receivable in all payments to the United States, "*unless otherwise directed by act of Congress.*" This added to the currency receivable by law in payment for the public lands a new medium, to wit: the bills, or notes, payable on demand, of the late Bank of the United States.

The joint resolution of 1816, followed but twenty days behind the bank charter, it having been passed, and met the approval of the President on the 30th day of April, 1816. That resolution required and directed the Secretary of the Treasury to adopt such measures as he should deem necessary to cause, as soon as might be, all duties, taxes, debts, or sums of money becoming due to the United States, to be collected and paid, "in the legal currency of the United States, or Treasury notes, or notes of the Bank of the United States, *as by law provided and declared*, or in notes of banks which are payable and paid on demand, in the said legal currency of the United States." The resolution went on to declare that, after the 20th day of February, 1817, no duties, taxes, debts, or sums of money, payable to the United States, *ought* to be collected or received otherwise than in the currency, or media of payment, before enumerated. Here was unquestionably given a permission to receive in payment of any portion of the public dues, and consequently in payment for the public lands as well as other dues, the notes of specie-paying State banks, and it is the first *permission* of that character which has met the notice of the committee in any of the acts of Congress. They are aware that some consider this resolution as mandatory, rendering the reception of these notes obligatory upon the head of the Treasury Department, but they do not so consider it. It is not their purpose, however, to discuss this question here, as that discussion pertains, more appropriately, to the second branch of the resolution referred to them. Under either construction, the resolution of

1816 made it lawful to receive a new medium of payment for the public lands in "the notes of banks payable and paid on demand in the legal currency of the United States."

From this time, therefore, the officers of the Government were compelled to receive in payment for all public lands, "specie," Treasury notes, "the bills or notes of the Bank of the United States payable on demand," and were also permitted to receive the notes of other banks "which were payable and paid on demand in the legal currency of the United States;" and, in addition to these media of payment, they were compelled to receive "Mississippi land scrip" for lands sold in the Mississippi Territory.

Thus remained the law upon this subject until the passage of the act of the 24th of April, 1820, entitled "An act making further provision for the sale of the public lands." This law abolished credits upon sales of public lands, from and after the 1st day of July, 1820, and declared that *every purchaser of land sold at public sale thereafter shall, on the day of purchase, make complete payment therefor; and the purchaser at private sale shall produce to the register of the land office a receipt from the Treasurer of the United States or from the receiver of public moneys of the district for the amount of the purchase money on any tract, before he shall enter the same at the land office.*"

The fourth section of the act makes provision for the sale of such lands as had been sold under former laws, and had reverted, or should thereafter revert, to the United States in consequence of the non-payment of the purchase money, and also of lots and tracts theretofore reserved from sale; and contains a proviso in the following words:

"*Provided, That no such lands shall be sold at any public sales hereby authorized, for a less price than one dollar and twenty-five cents an acre, nor on any other terms than that of cash payment; and all the lands offered at such public sales, and which shall remain unsold at the close thereof, shall be subject to entry at private sale, in the same manner, and at the same price, with the other lands sold at private sale at the respective land offices.*"

Although the terms of this law, and especially those employed in the proviso above quoted, "*nor on any other terms than that of cash payment*," would seem to favor the idea that it was the intention of Congress, from and after the day fixed in the law, to part with the public domain for "cash," for *money* only, in the strict and proper sense of the word; and although the policy of the law, in the abolition of all credits and the great reduction of the price of the lands, from two dollars to one dollar and twenty-five cents per acre, would seem to have the same bearing; and although the committee infer, from the lapse of time and the returns of sales, that the Treasury notes and Mississippi land scrip had ceased, in a great degree, if not altogether, to be presented in payment for lands; yet as they learn that no change as to the currency, or medium of payment, was introduced into practice in consequence of the passage of this act, they are content to assume, for the purpose of the argument, that no change, in this respect, was intended by it, while it certainly will not be contended that it is susceptible of any construction which can add to the media of payment authorized by former acts of Congress, or make the receipt of any such medium compulsory, which before its passage was merely permissive.

The committee find no other law affecting the currency, or medium of

payment, to be received for the public lands, until the passage of the act of the 30th day of May, 1830, entitled "An act for the relief of certain officers and soldiers of the Virginia line and navy, and of the continental army during the revolutionary war." The first section of this act makes it the duty of the Secretary of the Treasury, and Commissioner of the General Land Office, to issue certificates, or scrip, to certain officers, soldiers, sailors, and marines, who were in the service of Virginia, on her State establishment, during the revolutionary war, and who, by the laws and resolutions of the State, were entitled to military land bounties, upon the terms and conditions pointed out in the act. The first clause of the fourth section of the act is in the following words:

"SEC. 4. *And be it further enacted, That the certificates, or scrip, to be issued by virtue of this act, shall be receivable in payment for any lands hereafter to be purchased, at private sale, after the same shall have been offered at public sale, and shall remain unsold at any of the land offices of the United States, established, or to be established, in the States of Ohio, Indiana, and Illinois.*"

The sixth section of this act is in the words following:

"SEC. 6. *And be it further enacted, That the provisions of the first and fourth sections of this act shall extend to, and embrace, owners of military land warrants issued by the United States in satisfaction of claims for bounty land for services during the revolutionary war; and that the laws, heretofore enacted, providing for the issuing said warrants, are hereby revived and continued in force for two years.*"

The first clause of the seventh section is as follows:

"SEC. 7. *And be it further enacted, That the provisions of this act shall also be deemed, and taken, to extend to all the unsatisfied warrants of the Virginia army on continental establishment.*"

These provisions added another medium of payment for the public lands in what has been commonly denominated "the Virginia land scrip," subject to the limitations expressed.

On the 3d day of March, 1836, the charter of the last Bank of the United States expired by its own limitation, and the institution, for banking purposes, ceased to exist on that day; and, by a law of Congress passed on the 15th day of June, 1836, the 14th section of the charter, making its bills and notes receivable in payment of the public dues, was repealed.

This is believed to have been the exact state of the law in reference to the currency, or media of payment, receivable for the public lands at the time when the Treasury circular of the 11th of July, 1836, was issued.

Prior to this date, the committee suppose the law of the 31st of March, 1814, making the Mississippi land scrip receivable in payment for public lands in the Mississippi Territory, had become obsolete by the entire receipt and cancelling of the stock issued; and it is a matter of public notoriety that the Treasury notes authorized to be issued by the several laws before referred to, of 1812, 1813, 1814, and 1815, had been, long before, so far wholly redeemed and cancelled as to render those laws, for every purpose of this inquiry, also obsolete. The currency, or media of payment, receivable for the public lands, therefore, at the date of this order, had become reduced by the repeal of laws, the expiration of laws, and the extinguish-

ment of public liabilities, to "specie" and "Virginia land scrip," the receipt of which was compulsory, and "notes of banks which were payable, and paid on demand, in the legal currency of the United States," the receipt of which was merely permissive. The circular acted upon the bank notes merely, and was, in effect, a direction to the receivers of public moneys for lands not to use the permission granted by the joint resolution of 1816, as to bank notes, so far as the payments for lands were concerned. This suspended the receipt of the notes in this branch of the revenue, and left the payments for lands to be made in specie and Virginia land scrip.

The reasons which prevailed upon the mind of the then President of the United States to direct the circular to be issued, are given in the paper itself. It recites, in substance, that complaints had been made of extensive frauds, practised in the sales of the public lands; of vast speculations in those lands, under the system of sale, and payment, then in use; of alarming attempts to monopolize large tracts of the lands in the hands of individual and associated proprietors; of the aid given to effect all these objects, by excessive bank credits, by dangerous, if not partial facilities, through bank drafts and bank deposites; of the general evil influence likely to result to the public interests by these proceedings; of the danger to the public Treasury from this rapid accumulation of bank credits, in lieu of money, in its favor, as well as the danger to the currency of the country generally, from the unprecedented expansion of credits, and the further exchange of the public domain for credits in bank, or bank paper. Then follows the mandatory part of the circular, in these words:

"*The President of the United States has given directions, and you are hereby instructed, after the* 15*th day of August next, to receive in payment of the public lands, nothing except what is directed by the existing laws, viz: gold and silver, and, in the proper cases, Virginia land scrip: Provided, That till the* 15*th of December next, the same indulgencies heretofore extended, as to the kind of money received, may be continued for any quantity of land not exceeding* 320 *acres to each purchaser, who is an actual settler, or a bona fide resident in the State where the sales are made.*"

That the complaints recited in the circular were made, the committee certainly need not labor to prove to any who were members of either House of Congress from 1834 to 1836 inclusive; to any who listened to the debates and proceedings of either House during that period; to any who read the published proceedings of Congress, or listened to the voice of a large portion of the public press of the country, for the time alluded to. No one of these classes of persons can have forgotten the numerous and constantly repeated charges of favoritism, partiality, collusion, and fraud said to be practised by the officers charged with the sale of the public lands, and with the collection of the revenue therefrom. No one of these classes of persons can have forgotten the charges of sinister accommodations, of favoritism, of partiality, and of corruption made against the State banks generally, and especially against those which had been selected as deposite banks, and had accepted the trust. Every forum was filled with these charges and complaints, and every vehicle which transported the public mail, groaned under their weight, as they were diffused throughout the land.

That speculations were going on in the public lands, immense in extent, and in the capital and credit involved, became more fully demonstrable by every return from the receivers at the land offices. The proceeds of the sales arose, in consecutive years, from four millions of dollars, which was more than the previous average amount per annum, to fourteen millions, and from fourteen millions to twenty-four millions, in a single year. That monopolies in the hands of private holders, highly injurious to the settlement and prosperity of the new States, must grow out of sales thus accelerated, was a necessary and unavoidable consequence. The number of acres sold in a year, proved, conclusively, that vast quantities were purchased for a market, and for speculation, not for settlement and cultivation, while the passion to purchase seemed to increase with the increase of sales, until there was reason to apprehend that the means of payment were travelling in a circle from the banks to the land offices, and from the land offices to the banks, without adding other or further security for the lands sold than the increased indebtedness of the banks to the Treasury, and the increased indebtedness of the purchasers to the banks.

While these appearances and causes of uneasiness were exhibiting themselves to those charged with the management of this branch of the public service, forebodings of evil were not spared by those whose confidence in these public servants was not without limit. They were warned against a sacrifice of our rich public domain; against a monopoly of that vast estate by those said to be favored by their position, favored by power, and favored by the banks; against an exchange of that splendid inheritance, the price of the blood of the patriots of the revolution, for bank credits, bank paper, "*bank rags.*" They were charged to look to the public Treasury, and see that its numerous and rapidly increasing millions upon paper were realized to the people in a sound and not a depreciated currency. They were told of the dangers and evils of these sudden and vast accumulations in the banks; and speedy and fatal derangements of the currency generally were predicted, with a confidence which could not have been exceeded in prophets, possessing plenary powers to bring about the fulfilment of their own predictions.

Such, briefly, was the history of the times up to, and through the session of Congress of 1835–6, and much of the time of that session was consumed, in both Houses, in considering propositions in relation to the revenue, the deposite and safe-keeping of the public moneys, the diminution of the surplus of revenue, so rapidly collecting in the banks, and other kindred measures; but the session of Congress closed and nothing was done. Still the evil complained of, and apprehended, was extending itself, and accumulating strength from its own advances.

Under these circumstances the circular was issued; and as the seat of the disease was assumed by all, to rest in the dangerous expansions by the banks, and the incautious facility with which they extended accommodations to the purchasers of the public domain, the check was made to operate upon their issues of paper, and to bring to the test of real capital this branch of the public revenues. It should not be overlooked that the circular was not to take effect until more than thirty days after it was issued, and that, even then, an exception to its operation was made, in favor of actual settlers, for a term of four months, and until after Congress would be again in session. It is but just to give here the conclusion of this letter

in its own words, that the objects designed to be reached and effected by it may not be mistaken. Its last paragraph is as follows:

"*The principal objects of the President in adopting this measure being to repress alleged frauds, and to withhold any countenance or facilities in the power of the Government from the monopoly of the public lands in the hands of speculators and capitalists, to the injury of the actual settlers in the new States, and of emigrants in search of new homes, as well as to discourage the ruinous extension of bank issues and bank credits, by which these results are generally supposed to be promoted, your utmost vigilance is required, and relied on, to carry this order into complete execution.*"

Such was the order, and such were the objects intended to be accomplished by it. That its action upon the banks, and especially in the land States, was in some degree harsh and severe, is unquestionably true. The condition of the institutions and the extension of their business, which called it forth, rendered this consequence certain and unavoidable. But before this effect of the circular should be made the ground for its condemnation, it should be considered how pressing was the necessity which called for some protection against a hasty transfer of the whole public domain, for an equivalent, rendered uncertain, at best, from its vast amount and rapid accumulation; how urgent was the call for some measure which should either check the strong current of receipts rushing into the Treasury, or give increased security and safety to the millions thus amassing beyond the wants of the Government; which should stay the expansions of the banks, or guard the public domain and public treasure against the ruinous consequences certain to follow from the revulsion which these expansions could not fail to draw after them; how imminent was the danger to the currency of the whole country, if these millions of the public money were suffered to multiply in the banks, and thus give strength, and force, and extent to the evil which all saw, all felt, and against which all demanded protection.

That these dangers surrounded us, now, unfortunately, requires no proof. The history of the country and of our banking institutions, as well as of our public Treasury, since the date of this circular, abundantly proves their existence and their extent. That the banks had extended their circulation and their credits beyond the point of prudence and of saftey, none will now question; that the public treasure in their keeping had become, and was becoming, unsafe from these excesses and indiscretions, experience has now demonstrated; and that every public interest required and demanded a check upon the excesses of banking, the excesses of trade, and the excesses of speculation, is now beyond dispute.

It has been objected to the Treasury circular, as the appropriate remedy for the evil complained of, that it adopted a rule of discrimination between the currency, or medium of payment, receivable for the public lands and for the revenue from customs, new, unknown to our laws and regulations for the collection of the revenue, and indefensible upon principle.

It has been already seen that discriminations of this character are not new to our laws. As early as the year 1797, the evidences of the public debt, which were transferable certificate of indebtedness, were made, by law, receivable in payment for the public lands, but were not receivable in payment for duties, or any other public dues. In 1814, the Mississippi land scrip was made by law receivable in payment for the public lands, in a speci-

fied territory, and not for the public lands generally, or in any other branch of the revenue, or for any other dues to the Government. In 1823, the gold coins of Great Britain, Portugal, France, and Spain were made receivable, at specified values, in payments for lands, while those coins were not, by any law of Congress in force at that time, receivable in any other branch of the revenue, or made a tender in the payment of any other debts. And as late as 1830 the Virginia land scrip was made receivable for lands in the States of Ohio, Indiana, and Illinois, and in no other States, and for no other payments to the United States; and the same scrip is yet a medium of payment for public lands, its application having been extended and made general by an act of 1835. Discriminations of this character, therefore, have long been known to the law and the practice of our public collections, and the circular introduced no new principle, in this respect, into our system.

Is there, then, any ground upon which the circular can be justified as having been made applicable to the receipts for lands and not for customs? The committee think some suggestions may be made which will go far to justify this application of the order, and they will proceed to state them.

In the first place, an excessive currency of any character, has a necessary tendency to sink the value of that currency when compared with the value of marketable property for which it is exchanged. Hence the invariable nominal rise, in the market, of property of all descriptions which is open to a free market, when that which is used as money is abundant and cheap; and one of the strongest evidences that our paper currency was excessive during the years 1835 and 1836, is found in the fact that prices constantly advanced, although the supplies in almost every department of trade and production were unusually abundant, and no extraordinary demand was known to exist. The duties which constitute our revenue from customs are almost all a rate per centum imposed upon the value of the article. If, then, the quantity of dutiable goods imported be the same, and the value be nominally increased in consequence of an excessive currency, the value of the duties will be nominally increased in the same ratio, and therefore the collection of the duties in the cheapened currency will keep the real value of the revenue from the importations at a given standard. Not so with our public lands. They have not been, and are not, in this sense, open to a free market. Their value, per acre, is fixed by law, and however much the currency in which they were purchased may have been cheapened by abundance, they could not rise, with other property, to a price which would restore the equilibrium. They were bound down by a statute value; and when the currency to be received in payment for them was designated, the same nominal value of that currency, however much it might be cheapened by excess, would purchase the same quantity of the lands.

If this suggestion required illustration, the history of the years 1835 and 1836 would afford the most ample. Speculations were excessive in almost every branch of trade and every description of property, but most so, and of the longest continuance, in the public lands. Why was this so? Clearly because, as our paper currency became more abundant it became more cheap, and while every other description of property advanced in price, in a ratio nearly equal to the depression in value of the currency which paid for it, the market value of the public lands remained the same, and the same amount of the cheapened currency would purchase the same quantity of the lands. Hence they soon became the cheapest commodity in the market,

and therefore continued to attract the attention of purchasers for the longest time and to the latest period of the business excesses.

This consideration would seem to the committee to offer a reason for the discriminating application of the circular at the time it was issued. When Congress fixed the value of the public domain at one dollar and twenty-five cents per acre, the intention, no doubt, was, that the Treasury should receive that sum in coin, or its equivalent. If, then, the paper currency had become so far cheapened, in consequence of its excess, that one dollar and twenty-five cents in it was worth less than the same sum in coin, that difference was most palpably a net gain to the purchasers of the lands, and an entire loss to the whole people of the country, to whom the public domain belongs. That the committee are not mistaken in supposing that the paper currency was cheapened below the value of coin, is proved from the almost instant operation of the order itself, when one hundred and ten dollars of the paper were paid for a hundred dollars of the coin, to be expended in the purchase of the same lands, at the same price.

In the second place, a check upon the excessive issues of paper, and the dangerous extensions of credit, was one of the great objects to be attained. The two great sources of revenue were the public lands and the foreign importations. For the former, the paper, while it continued to be the currency of the Treasury for their purchase, was the exclusive standard of value. It made the whole purchase. It was an accepted medium for the entire payment, and when the trade became excessive, a check upon the paper was a check upon the whole capital embarked. Not so with the foreign importations. The paper was the medium of payment for the duties simply. The goods, upon which the duties were assessed, were, and must be, purchased abroad, where our bank paper could not circulate, and did not constitute a medium of payment, and where coin, and the equivalent of coin, would alone pay the debts of the American merchant. If, then, it be considered that but about one-half of the amount of our foreign importations is chargeable with duties at all, and that the duties upon the remaining half do not, probably, at the present time, exceed an average of thirty per centum, it will be seen how feeble, in the comparison, would have been the check imposed by the order upon this branch of the revenue. In the case of the lands it reached the whole capital, and, as has been seen, imposed upon it a check equal to some ten per centum, while, in the case of the importations, it could have reached but the mere incident of the duties, being only some fifteen per centum upon the whole capital, and, at the same rate of calculation, affording a check only equal to about one and one-half per centum.

Again, excessive issues of paper by our banks would act directly, and to the whole extent, upon the trade in the public lands, so long as the paper continued to be received in payment for them, because it would meet the whole cost, and constitute an acceptable medium for the whole payment; while the same excessive issues of the same paper would act but indirectly and incidentally upon our foreign trade. It might, to some extent, and for a limited period, cheapen our products to be sent abroad and exchanged for foreign merchandise, and in this way stimulate the foreign trade. It might, while the paper remained nominally equivalent to gold and silver, and convertible into them, by cheapening the precious metals, lead to their profitable exportation, and thus tend to make foreign trade excessive. And it would, while the countries with which the business was carried on remained at a healthful standard, add a direct stimulus as to that part of the

capital required to pay the home duties. Still it will be seen that the impetus given to foreign trade by excessive banking at home is indirect, incidental, and partial, while that given to domestic speculations, such as that which has recently taken place in the public lands, is direct, positive, and universal. These considerations, in the minds of the committee, should go far to justify the discriminating application of the order.

In the third place, so large a portion of the operations of foreign trade is brought to the direct test of real capital, to the touch-stone of a currency of intrinsic value, that excesses in that trade will soon check themselves. Not so with domestic trade based upon an excess of paper currency, while that paper continues to be an acceptable medium of payment in all its operations. So long as that state of things can be preserved, the domestic excesses may be continued and extended at pleasure. Here, again, our recent experience furnishes us proof of the correctness of our positions. The excesses may be said to have commenced, in both branches of our trade, at about the same time. The domestic branch received the earliest check in the order under consideration, and yet that portion of it confined to the public lands had increased six fold in two years, thus showing the direct and powerful impetus communicated to it, and the unlimited power of expansion it possessed, until checked by extraneous application, by the test of real capital, not introduced by its own movements, but forced upon it by an independent power. Notwithstanding this application to our domestic trade, however, sudden and harsh as it is supposed to have been, months passed away before the self-correcting principle of the foreign trade produced any sensible check in that branch. Yet, although its amount had not been doubled during the whole period of excess, when this correcting principle did manifest its power, a business paralysis was felt throughout the whole country. All business was suddenly arrested, and the banks themselves were compelled to suspend specie payments, without the ability to give a hope of resumption, until a healthful equilibrium could be restored to this trade. Such, then, is the check which the foreign trade contains within itself, while the domestic, if once driven to excess, must look abroad for the corrective; and hence the greater propriety of applying the order in question to the one than to the other.

To such as entertain the opinion that the pecuniary affairs of the country were healthful and well, at the time this order was issued, that nothing required to be done, no check to be imposed, arguments in justification of the order would be addressed in vain: But such as admit that something was required, some protection to the public treasure and the public domain demanded, should ask themselves what other, or better, measure was in the power of the Executive, before they condemn this as too sudden, too harsh, or too strong. They should remember that, although the land sales were materially checked, and the revenue from that source beneficially diminished, by the operation of the order, business was not convulsed, trade was not prostrated, and the banks were not closed, until the commercial revulsion, following from the excesses of our foreign trade, interposed itself. That the operation of the order may have hastened, in some small degree, the commercial revulsion is barely possible; that it was the cause of that revulsion is not possible. The supposition is contradicted by the facts of history, applicable as well to other countries as our own, by the dates of events, and by the necessary connection between cause and effect.

To the complaint that the order was made invidious by its partial application to a single branch of the public revenue, it would seem to the com-

mittee to be a satisfactory answer to say that it was made applicable to that branch of the revenue upon which it would act most efficiently, as a check to the prevailing excesses; upon that branch of the revenue from which the heaviest surplus was accumulating in the Treasury; upon that branch of the revenue which was most insecure, as time has since shown; upon that branch of the revenue which, from the nature and character of the property out of which it arose, as well as from the medium in which it was entirely paid, most needed protection, by an efficient check upon the excesses of credit; and that, if its action was necessarily severe, that action was materially mitigated by confining it to that branch of the revenue least diffused, in its exactions upon the tax-payers of the whole Union.

So much for the Treasury circular of the 11th of July, 1836, for the peculiar circumstances which called it forth, for the reasons and views which dictated it, for the grounds upon which its partial and particular application is justified, and for answers to the prominent objections against it.

The suspension of specie payment by the banks, and the provisions of the deposite law of 1836, have, since the month of May, 1837, rendered the order in question practically a dead letter, and it remains, to this moment, in that state, unrescinded.

The Senate has, during its present session, with great and patient labor, digested, passed, and sent to the House of Representatives, a bill, such as met the approbation of a majority of its members, covering all these points, and calculated to make the rule for the currency, collection, safe-keeping, and disbursement of the public revenue, in all its branches, uniform and identical. As has been before remarked, one of the sections of that bill was, in its supposed purpose and object, similar to the first clause of the resolution referred to the committee, and now under consideration. The vote of the Senate, which introduced that section into the bill, does not leave room for a doubt that the body is decidedly friendly to the principle contained in it, the principle of uniformity in the currency, or media of payment, in all branches of the public revenue. The question is one which, so far as its present agitation is concerned, has originated in the action of the Executive Department of the Government, but that department has repeatedly referred it, with all the attendant considerations, to Congress, that legislation, so far as Congress should think wise and expedient, might take the place of Executive regulation and Executive discretion. Whether, under these circumstances, the Senate will consider it incumbent upon it to act further, upon any branch of this great subject, until it shall be informed of the final disposition, by the House, of the bill it has sent down, covering the whole ground, is a question in relation to which the committee do not feel called upon for the expression of an opinion. If it shall be supposed that this repetition of action may involve considerations of parliamentary rule, or parliamentary courtesy, they will appropriately address themselves to the Senate itself, and not to one its committees.

The committee will, therefore, leave this branch of the resolution, with the single remark that, should the Senate be disposed to adopt it in its present form, some exception may be required to be made in relation to "the Virginia land scrip," now expressly, by law, made receivable for lands, but not for any other public dues.

The second clause of the resolution, proposing to make bank notes the currency of the public Treasury, is in the following words:

"*And that, until otherwise ordered by Congress, the notes of sound banks, which are payable and paid on demand in the legal currency of the United States, under suitable restrictions, to be forthwith prescribed and promulgated by the Secretary of the Treasury, shall be received in payment of the revenue and of debts and dues to the Government.*"

The proposition here presented, also, has already received the definitive action of the Senate during its present session, but not, like the former one, the favorable action of the body. A reference to the journal will show that, on the 24th day of March last, the "bill to impose additional duties, as depositaries, upon certain public officers, to appoint receivers general of public money, and to regulate the safe keeping, transfer, and disbursement of the public money of the United States," being under consideration, the following amendment was moved, to stand as the 23d section of that bill, viz:

"SEC. 23. *And be it further enacted, That the revenue of the United States, whether arising from duties, taxes, debts, or sales of public lands, shall be collected and received in gold and silver, or in Treasury notes, or in the notes of banks which are payable, and paid on demand, in the legal coin of the United States, subject to such regulations and restrictions, in regard to the notes of specie paying banks, as aforesaid, as Congress may, from time to time, establish and prescribe: Provided, That nothing in this section shall be so construed as to prohibit receivers or collectors of the dues of the Government from receiving for the public lands any kind of land scrip, or Treasury certificate, now authorized by law.*"

The only substantial difference between these propositions is, that the one now referred to the committee leaves the restrictions and regulations, under which bank notes are to be received, to the Secretary of the Treasury, while the one formerly offered to the Senate reserved to Congress alone the right of imposing those restrictions. In all other respects both are substantially the same. The exclusive object and purpose of both is to make the notes of specie paying banks receivable, by compulsion of law, in all dues to the Government, and although the one last quoted enumerates also gold and silver and Treasury notes, yet the sole change it proposes in the existing laws, is as to the bank notes, inasmuch as gold and silver, and Treasury notes are, by the existing laws, expressly made receivable in payment of all dues to the United States. The propositions, therefore, are identical in substance, with the single exception before named. A reference to the Senate journal of the 24th of March last, will show that a vote of the Senate was taken upon the last named proposition, and that it was rejected, every Senator being in his seat, and voting upon the question.

This part of the resolution, therefore, like the former, is obnoxious to the objection that it is, in effect, but a mere repetition of a proposition before made to the Senate, and before deliberately and definitively acted upon by the body, during its present session. The committee do not mention this fact to prove that the Senate either cannot, or ought not, again to entertain the proposition, or that it will not be the pleasure of the body again to act upon it. As in relation to the former clause of the resolution, they do not feel called upon to express any opinion upon these points. They are ques-

tions, as it seems to them, addressing themselves to the Senate itself, and not to the committee, and with the Senate they cheerfully leave their decision. They will, however, respectfully suggest, that a practice of this sort, extensively introduced, could not prove economical to the time of a legislative body, or favorable to the certainty of its action. The same questions might, under such a practice, call for a repetition of debate and a repetition of votes, without any material advance in business, and as the body might chance to be full, or thin, as to numbers, at the precise moment of each vote, its decisions of the same questions might be uniform, or contradictory. These, however, are considerations which will not escape the attention of the Senate in disposing of the propositions now presented.

How, then, will the clause of the resolution now under consideration, if adopted and made part of the law of the land, change the law as it exists? and how will it effect the Treasury and the public funds? In the opinion of the committee, it will make a medium of payment for public dues, to wit: specie paying bank notes, compulsory, which has heretofore been merely permissive; and it will force upon the public Treasury a currency which has proved, upon various occasions, to be unsafe and dangerous, when its receipt rested in the discretion, and, therefore, to some extent, upon the official responsibility, of the fiscal officers of the Government, and which, if made the legal currency of the Treasury, and compulsory upon it, will subject the public revenues to fluctuations, hazards, and losses, highly detrimental to every important interest, public and private.

Are the committee right in supposing that this proposition involves the change of the existing laws which they have mentioned? As condensed an examination of our legislation upon this subject as can be made shall answer this inquiry.

The first law passed, after the organization of the Government under the present constitution, touching the currency, or medium of payment, in which the public dues should be collected and received, was an act passed on the 31st day of July, 1789, entitled "An act to regulate the collection of duties, imposed by law on the tonnage of ships, or vessels, and on goods, wares, and merchandises, imported into the United States." The 30th section of that act prescribed the currency to be received under it, and was in the following words:

"SEC. 30. *And be it further enacted, That the duties and fees to be collected by virtue of this act shall be received in gold and silver coin only, at the following rates, that is to say: the gold coins of France, England, Spain, and Portugal, and all other gold coins of equal fineness, at eighty-nine cents for every pennyweight; the Mexican dollar at one hundred cents; the crown of France at one dollar and eleven cents; the crown of England at one dollar and eleven cents; and all silver coins of equal fineness at one dollar and eleven cents per ounce.*"

This established "gold and silver coin only" as the currency of the Treasury, so far as the revenue from customs was concerned. This act was repealed by an act passed on the 4th day of August, 1790, entitled "An act to provide more effectually for the collection of the duties imposed by law on goods, wares, and merchandise imported into the United States, and on the tonnage of ships and vessels." The 56th section was in the same words with the 30th section of the act of 1789 above quoted, with the fol-

lowing addition at the end of the section, viz: "*and cut silver of equal fineness at one dollar and six cents per ounce.*"

The next law which affected the currency of the Treasury was the act passed on the 25th day of February, 1791, entitled "An act to incorporate the subscribers to the Bank of the United States." The 10th section of this act was in the following words:

"SEC. 10. *And be it further enacted, That the bills, or notes, of the said corporation originally made payable, or which shall have become payable, on demand in gold and silver coin, shall be receivable in all payments to the United States.*"

These laws constituted the currency of the Treasury "of gold and silver coin only," or of the bills, or notes, of the Bank of the United States, originally made payable, or which had become payable on demand, in gold and silver coin;" which currency was made receivable in all branches of the public revenue, and for all debts and dues of the Government.

With the exception of the legislation as to the currency, or media of payment, receivable for the public lands, before noticed, the committee find no act of Congress changing this state of the law, until the passage of the act of 2d May, 1799, entitled "An act to regulate the collection of duties on imports and tonnage." This act repealed the act of 1790 above referred to, *and all prior acts and parts of acts conflicting with its provisions*, and its 74th section is in the words following:

"SEC. 74. *And be it further enacted, That all duties and fees to be collected shall be payable in money of the United States, or in foreign gold and silver coins, at the following rates, that is to say: the gold coins of Great Britain and Portugal, of the standard prior to the year one thousand seven hundred and ninety-two, at the rate of one hundred cents for every twenty-seven grains of the actual weight thereof; the gold coins of France, Spain, and the dominions of Spain, of the standard prior to the year one thousand seven hundred and ninety-two, at the rate of one hundred cents for every twenty-seven grains and two-fifths of a grain of the actual weight thereof; Spanish milled dollars, at the rate of one hundred cents for each dollar, the actual weight whereof shall not be less than seventeen pennyweights and seven grains, and in proportion for the parts of a dollar; crowns of France at the rate of one hundred and ten cents for each crown, the actual weight whereof shall not be less than eighteen pennyweights and seventeen grains, and in proportion for the parts of a crown: Provided, That no foreign coins shall be receivable, which are not, by law, a tender for the payment of all debts, except in consequence of a proclamation of the President of the United States, authorizing such foreign coins to be received in payment of the duties and fees aforesaid.*

By an act passed on the 9th day of February, 1793, entitled "An act regulating foreign coins, and for other purposes," it is provided, that the foreign coins above particularly named, shall pass current, "*as money*," within the United States, and be a tender in payment of debts, at the rates above specified, which explains the proviso of the section; but what is the true legal construction of the terms "*money of the United States*," used in the first part of the section, may require some examination.

On the 2d day of April, 1792, an act was passed entitled "An act establishing a mint, and regulating the coins of the United States." This act

made the first provision for our national coinage and for our national coin. Its provisions are numerous, but it is sufficient for the present purpose to say of them that they designate the coins of gold, silver, and copper, to be coined at the mint, being the same designations which the coins of the United States still bear; that they regulate the value of the coins; and that the 16th section is in the following words:

"SEC. 16. *And be it further enacted, That all the gold and silver coins which shall have been struck at, and issued from, the said mint, shall be a lawful tender in all payments whatsoever; those of full weight, according to the respective values hereinbefore declared; and those of less than full weight, at values proportional to their respective weights.*"

The constitution gives to Congress the power to "coin *money*, regulate the value thereof, and of foreign coin;" and the two acts last referred to are an exercise of that power; the latter providing for coining money by means of a mint of the United States, and regulating the value of the money so to be coined; and the former regulating the value of foreign coin. This power is exclusive in Congress, as the constitution of the United States expressly prohibits the States from coining money. What, then, is "the *money* of the United States here intended?" In the opinion of the committee, it is the *coin* of the United States; the *product* of the mint of the United States; the *money coined* by the authority of Congress. In this opinion, they do not suppose it possible they can be mistaken. The construction seems to them too clear to admit of argument or question. The collocation of the words "money of the United States," as used in the section of the act of 1799, above quoted, would seem to confirm this, as the construction intended to be given to these words by Congress, in the passage of that law. The provision is, "that all duties and fees to be collected, shall be payable in *money* of the United States, or in foreign *gold and silver coins*;" thus, as it would seem to the committee, contemplating a currency of metal only, and using the words which are used, to distinguish between the coinage of our own country and foreign coinage.

It has been seen that, prior to the passage of this law, the revenue from customs was, by law, collectable in gold and silver coin, or in the bills or notes of the Bank of the United States. If the construction which the committee have given above to this act of 1799 be correct, the bills or notes were excluded by it from the collections of the revenue from customs, inasmuch as the 112th section of the act repeals the act of the 4th of August, 1790, and further declares that "all other acts, and parts of acts, coming within the purview of this act, shall be repealed, and thenceforth cease to operate." That branch of the revenue was, therefore, from that time forward, receivable in coin only; that is to say, "in money of the United States, or in foreign gold and silver coins."

Between this date and the year 1811, no changes are found to have been made in the law prescribing the currency, or medium of payment, in which any part of the public dues should be received, other than such as have been noticed under the former head of this report, being such as affected that branch of the revenue derivable from the lands only. On the 3d day of March, 1811, the charter of the old Bank of the United States expired, and, by an act passed on the 19th of March, 1812, the 10th section of that charter, making the bills, or notes, of the corporation receivable in payments to the United States, was repealed. This left the act of 1799 the unques-

tioned rule as to the currency receivable in payment of the revenue from customs.

In this same year, however, and the three years succeeding, the various laws before referrred to, of 1812, '13, '14, and '15, authorizing emissions of Treasury notes, were passed; all of which made the notes receivable in all branches of the revenue, and for all dues to the Government. They, therefore, were added to the coin, as a medium of payment in the collections of the duties and fees, under the act of 1799, and the other acts regulating the collection of the revenue from customs.

On the 10th day of April, 1816, the law passed to incorporate the second Bank of the United States, entitled "An act to incorporate the subscribers to the Bank of the United States." The 14th section of this act was in the words following:

'SEC. 14. *And be it further enacted, That the bills, or notes, of the said corporation, originally made payable, or which shall have become payable, on demand, shall be receivable in all payments to the United States, unless otherwise directed by act of Congress.*"

If this last clause of the section referred to "acts of Congress" thereafter to be passed, and not to acts of Congress then in force, then this bank charter added a new medium of payment for all public dues, and made receivable, in all branches of the public revenue, by the then existing laws, "gold and silver coin," "Treasury notes," and "the bills or notes of the corporation payable on demand." This seems to have been the construction given by Congress to those laws in the language used in the joint resolution of the 30th day of April, 1816. This resolution, it will be seen by its date, passed but twenty days after the passage of the bank charter, and made a change in the legislation of Congress, in relation to the currency of the public Treasury, much greater than any which had ever before been known to our laws. Indeed, it must strike the attention of all, at this day, as somewhat remarkable, that, during the existence of the Government under the constitution, the two bank charters alone excepted, no law, or resolution, or expression of Congress, had recognised, in any form, or to any extent, bank notes as a medium of payment at the Treasury; and that, even during the existence of the first bank charter, and notwithstanding the receivable character given to its bills and notes by its 10th section, before quoted, the law of 1799, before referred to, in relation to the collection of the revenue from customs, and the law of 1800, referred to under the former head of this report, in relation to the sale of the public lands, were both passed, and both confined the payments, in these respective branches of the revenue, to "specie," "money of the United States," "gold and silver coin," or "evidences of the public debt of the United States." These laws, too, remained in full and unquestioned force, as to these provisions, during the whole remaining life of that bank charter, and up to the time of the charter of the second bank, in 1816.

The joint resolution of 1816, here referred to, is entitled "A resolution relative to the more effectual collection of the public revenue," and is in the following words:

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, required and directed to adopt such meas-*

ures as he may deem necessary to cause, as soon as may be, all duties taxes, debts, or sums of money accruing or becoming payable to the United States, to be collected and paid in the legal currency of the United States, or Treasury notes, or notes of the Bank of the United States, as by law provided and declared, or in notes of banks which are payable, and paid, on demand, in the said legal currency of the United States; and that, from and after the twentieth day of February next, no such duties, taxes, debts, or sums of money accruing or becoming payable to the United States, as aforesaid, ought to be collected or received otherwise than in the legal currency of the United States, or Treasury notes, or notes of the Bank of the United States, or in notes of banks which are payable, and paid, on demand, in the said legal currency of the United States."

Such was the resolution of the 30th of April, 1816: a resolution called into existence by the derangement in our monetary system at that particular period; a resolution which, its form and its terms, as well as the circumstances attending it, all conclusively prove, was never intended, by the Congress which passed it, to be a permanent regulation for the currency of the Treasury, but a temporary aid in an attempt to recover from the wide departures from the law, which the *practices* of the Treasury Department had introduced; in an attempt to bring back, to a tolerable state, a practical, not a legal, currency which had become intolerable. And it should be carefully borne in mind that this resolution was not designed to release the standard of currency for the Treasury from the operation of sound and wholesome laws, but to relieve the Treasury from a depreciated currency which had been, and was being, received into it against law.

The committee are not to be understood as speaking in terms of censure of the state of things existing in 1816, in relation to our monetary affairs, but merely as relating facts as they appear upon the face of the statute book. We had just then emerged from a state of war. Our contest had been with a rich, and powerful, and skilful, and experienced enemy. Our resources, both in men and money, were vastly more limited than they now are. A heavy balance of the debt of the revolution remained unpaid, and our credit as a nation had become but partially established, either with our own or foreign capitalists. We were unprepared for war, and the expenses of making the necessary preparations, in the midst of hostilities, soon exhausted our Treasury, and depressed our credit. In that condition, the country sought aid wherever it could be obtained, and, among other resources, availed itself of that which was offered by a certain portion of the State banking institutions. In this way it became their debtor, and, being unable to pay, was compelled to wink at, and finally to countenance, their suspension of specie payments. Hence, also, arose the compulsion to make their irredeemable notes the currency of the Treasury; a compulsion stronger than the law; the compulsion upon the debtor not to refuse to honor the paper of his creditor. Surely, then, the committee are not disposed to cast censure upon the able, and worthy, and patriotic public officers, through whom these acts were performed, but to mourn, as they did, over that depressed condition of our beloved country which forced its faithful public servants to these extremities.

To extricate the Treasury from these embarrassments, and, as far as might be, to reclaim the currency generally from derangements thus

brought upon it, was the design and object of the resolution under consideration, and who, that has examined our previous legislation, will believe that, but for these derangements, growing principally out of loans and advances to the Government in the hour of its utmost need, the resolution of 1816 would have ever met the approbation of a Congress of that day? And who, in view of all these considerations, will believe that the Congress which did pass that resolution intended to render it compulsory as to the receipt of the notes of the State banks in payment of all public dues, and thus to fasten upon the public Treasury, as a permanent and obligatory medium of payment, for all future time, that very currency from which the country had suffered, and was then suffering, so severely?

Was the resolution imperative as to the receivability of the notes of the local banks? Such is not the construction which the committee give to it. The resolution names four distinct media of payment for the public dues, viz: the legal currency of the United States, (gold and silver coin,) Treasury notes, notes of the Bank of the United States, and notes of banks which are payable and paid, on demand, in the legal currency of the United States. The three first are mentioned as currency, or media, "*as by law provided and declared*," as it has been seen they were, while the committee look upon the enumeration of the last, it not being a currency, or medium of payment for the public Treasury "by law provided and declared," as, in substance, granting a permission to the fiscal agents of the Treasury to make it such, if payable and paid, on demand, in the legal currency; as, in effect, saying to the receivers of public money, in all the departments, you *may* receive the notes of the local banks in payments to the United States, provided they are redeemable and redeemed, on demand, in coin; you are now receiving them while they are irredeemable, but after the 20th day of February next you "*ought*" not to receive them in that state.

Another view of the resolution will strengthen this construction. If it is imperative as to the receipt of the notes of *any* local banks which are payable and paid on demand in the legal currency of the United States, it is equally imperative that the notes of *all* local banks which are so paid, shall be received. Will the idea be entertained, for a moment, that the Congress of 1816 intended this? Will it be believed that they intended to make the notes of all the banks in the Union, and of all which the States should, thereafter, charter, and which should, at the moment, be specie-paying banks, an effective tender, at any and every point in the Union, in payment of all Government dues? The committee cannot entertain such an opinion. They will not believe that the majority of any Congress of the United States, which has ever yet assembled, would have adopted a rule for the currency of the public Treasury so incalculably dangerous. To them the resolution seems to have had one distinct and leading object, viz: the discontinuance of the receipt, at the Treasury, of the notes of banks which were *not* payable and paid on demand in the legal coin of the United States. Still the banks, whose notes were to be excluded by such a rule, were the banks which had aided the Government in its then recent troubles, and to which it stood indebted. Hence the advisory, rather than mandatory, language in which the interdiction was couched in the last part of the resolution; and hence, too, the inducement as to the receipt of the notes, in case they were redeemed in specie, proffered in the first part of the resolution. Those portions which relate to "the legal currency of the United States," to the "Treasury notes," and to the "notes of the Bank

of the United States," were not inserted to constitute, by the force of law, a currency for the Treasury; for they were then, by the law, the currency of the Treasury for all payments to the United States. They were not made the currency of the Treasury by the resolution, but were so before the resolution had existence, and were described in it as the currency in which the public dues were to be paid, "*as by law provided and declared.*" The resolution, then, was not designed to, and did not, prescribe and establish a currency obligatory upon the Treasury, but recited that which was so, "as by law provided and declared;" and authorized the Secretary of the Treasury to add to it, in the collections of the revenue, the notes of banks which were payable and paid on demand in the legal currency of the United States, while it pronounced the opinion of Congress that he "ought" not, after a day named, to receive, in those collections, the notes of banks which did not redeem their notes in specie on demand. If this question be yet doubtful, the committee will refer to the cotemporaneous construction of the Government, and its agents, as shown by their practice under the resolution, to establish the point. It will be recollected that the charter of the second Bank of the United States passed Congress on the 10th day of April, 1816, just twenty days before the passage of the resolution in question. By the 16th section of that charter, "*the deposites of the money of the United States in places in which the said bank and branches thereof may be established, shall be made in said bank or branches thereof,*" &c. In pursuance of this requirement, the public money was placed in the bank and its branches for safe-keeping and disbursement, as soon as the institution was prepared to receive it; and the bank became, at every important point in the Union, the fiscal agent of the Treasury, both for the collection and disbursement of the public revenues. If, then, the receipt of the notes of all the specie-paying banks of the country was made compulsory upon the Treasury by the joint resolution of 1816, (for it has already been shown that if the receipt of any such notes was compulsory, the receipt of all was so,) it made the receipt of all such notes equally compulsory upon the bank, as the fiscal agent of the Treasury, so far as the collection of the public dues was concerned. Did the bank so construe the resolution, or so practise under it? It shall speak for itself, in the language used in the 24th and 25th of its rules and regulations, adopted on the 3d day of January, 1817, for the government of its branches. It will be seen by the dates, that these rules and regulations were adopted just eight months and three days after the passage of the resolution by Congress, and the two here referred to are in the words following:

"ARTICLE XXIV. *The offices of discount and deposite shall receive, in payment of the revenue of the United States, the notes of such State banks as redeem their engagements with specie, and provided they are the notes of banks located in the city or place where the office receiving them is established. And also the notes of such other banks, as a special deposite on behalf of the Government, as the Secretary of the Treasury may require.*

"ARTICLE XXV. *The offices of discount and deposite shall, at least once every week, settle with the State banks for their notes received in payment of the revenue, or for engagements of individuals to the banks, so as to prevent the balances due to the office, from swelling to an inconvenient amount.*"

Here is the construction put upon this resolution by the bank, immediately after its passage, and before the day named in it had arrived, when the Treasury was to cease to receive the notes of non-specie paying banks. Here, too, are the rules which were to govern, and which did govern, the practice of the bank under the resolution; and the committee are bound to presume that the construction and the rules met the approbation of those officers of the Government, whose duty it was to see the laws faithfully executed in this particular, as they were bound to see that their fiscal agent performed what they held themselves obliged to perform, in consequence of this resolution. They are also bound to presume that this practice was in accordance with the intention of the members of Congress who voted for the resolution, and with the construction given to it by the State banks interested, as the practice appears to have governed the conduct of the bank, without any interference on the part of Congress, from the time the rules and regulations were adopted, until the month of October, 1833, when the public money ceased to be deposited with the institution. Surely, then, after such evidences of cotemporaneous construction, it will not be contended that the resolution of 1816 was intended to, or did, make the receipt of all specie paying bank notes obligatory upon the Treasury.

After this period, and during the continuance of the charter of the second Bank of the United States, no laws have met the attention of the committee, which varied the description of currency, or media of payment, for the public dues. The legal currency of the United States, Treasury notes, and the notes of the Bank of the United States, payable on demand, were, therefore, the legal currency of the Treasury, with the permission granted by the resolution of 1816, to receive the notes of the local banks payable and paid on demand in the legal currency of the United States, until the expiration of that charter. The charter expired on the 3d day of March, 1836, by its own limitation, and on the 19th day of June after, Congress repealed its 14th section, which made its notes receivable in payments to the United States.

It is proper here to remark, that the various laws authorizing emissions of Treasury notes, and making them receivable for all Government dues, had become obsolete, by the entire redemption of the notes, many years before the expiration of the bank charter, in 1836, and that medium of payment was thus practically withdrawn from the currency of the Treasury. The expiration of the charter of the bank, and the law of the 15th June, 1836, repealing the 14th section of the charter, withdrew another of those media in the notes of the bank, thus leaving "the legal currency of the United States" the only currency compulsory upon the Treasury, but leaving also the permission given by the joint resolution of 1816, to receive the notes of specie-paying local banks.

This continued to be the state of things until the passage of the act entitled "An act to regulate the deposites of the public money," passed on the 23d day of June 1836. The last clause of the fifth section of that act is in the following words:

"*Nor shall the notes or bills of any bank be received in payment of any debt due to the United States, which shall, after the fourth day of July, in the year one thousand eight hundred and thirty-six, issue any note or bill of a less denomination than five dollars.*"

Thus modified the law *compelled* the receipt of the legal currency of the

United States, and *permitted* the receipt of the notes of such specie-paying banks as should not, after the 4th of July, 1836, issue notes of a less denomination than five dollars.

On the 12th of October, 1837, an act was passed entitled "An act to authorize the issuing of Treasury notes," the first clause of the sixth section of which reads as follows:

"SEC. 6. *And be it further enacted, That the said Treasury notes shall be received in payment of all duties and taxes laid by the authority of the United States, of all public lands sold by the said authority, and of all debts to the United States of any character whatsoever, which may be due and payable at the time when said Treasury notes may be offered in payment.*"

This law added again Treasury notes as a medium of payment, and thus stands the law at the present time, the legal currency and Treasury notes being made receivable by law, and the notes of specie-paying banks, which have not, since the 4th day of July, 1836, and do not, issue notes of a less denomination than five dollars, being permitted to be received by the resolution of 1816, as modified by the deposite law of 1836.

In this last review of the legislation in relation to the currency references may not have been made, in all cases, to the laws prescribing the media of payment for the public lands, but all such laws are believed to be particularly noticed under the former head. None of the numerous laws regulating the value of foreign coin, and of the coins of the United States, have been referred to under either head, as the coins of both descriptions, as far as regulated by law, have at all times been receivable in all the branches of the revenue, and for all dues to the Government, either specifically, by the terms of the laws, or under the general designations of "money of the United States," and "legal currency of the United States." It may, however, be worthy of remark, that considerable changes are found in the laws regulating the value of foreign coin, both as to the descriptions of coins legalized and made "money of the United States," and a tender in payment of debts, and as to the value fixed to the coins of different countries by the different laws; and that during some periods, no foreign gold coins, and very few foreign silver coins, if any, have been legalized. It also appears that, by an act passed on the 3d day of March, 1823, the gold coins of Great Britain, Portugal, France, and Spain were made receivable "in all payments on account of the public lands," at specified rates, but for no other public dues, nor were any foreign gold coins, at that time, legalized and made a tender in the payment of debts.

Such has been the legislation of Congress on the subject of the currency, or media of payment to be received for dues to the public Treasury, and from it we learn that, with the exception of the two bank charters, and the resolution of 1816, it has, in all cases and for all purposes, required in payment of the public dues gold and silver coin, or securities issued upon the faith and credit of the Government. The bank charters present the only instances where bank notes have been made a tender in payment of debts due to the United States, and in those instances, the notes of the banks themselves only were so made, being the notes of banks in which the Government itself was a stockholder to the amount of one-fifth part of the whole capital; of banks created by Congress, and over which Congress held sovereign control, both as the creating legislature, and as the guardian of the

property of the people invested in them. The committee do not mean to be understood as speaking in terms of approbation of legalizing the notes of even these banks as a currency compulsory upon the Treasury, but merely as distinguishing the banks which issued them from the banks chartered by the States, over which Congress has no control; in the management of which no branch of this Government can exercise any voice, and in which the United States hold no interest.

Still the proposition referred to the committee, and now under consideration, is that all the notes of all the specie-paying State banks of the country, of all such banks, which the States shall hereafter charter, and of all such banks, which may be hereafter formed under any general bank laws, or systems of free banking, which any of the States have adopted, or may hereafter adopt, "shall be received in payment of the revenue, and of debts and dues to the Government." Such they understand to be the scope and effect of the proposition embraced in the resolution referred to them. Will the Senate adopt it? The committee hope and believe not. The deliberate expression of the body against a proposition substantially similar, during its present session, strenghtens this hope.

The permission to receive the notes of specie-paying State banks, still exists under the resolution of 1816. Do the interests of this Government require more than this permission? Will the security of the public treasure, the money of the people intrusted to the keeping of Congress, be increased by making the receipt of these notes compulsory upon the Treasury? The constitution has protected the people themselves against being compelled to take bank notes, of any character, in payment of dues to them, as individual citizens. It declares that "no State shall make anything but gold and silver coin a tender in payment of debts;" and no one ever has, and the committee presume no one will now, claim for Congress the power thus denied to the States. Were the fathers of the land, the framers of the constitution of the United States, wise in extending this protection to the individual citizens of the country? Did, and do, their private interests require this protection? All will answer these questions affirmatively. Is it possible, then, that their collected interest, their public treasure, is to be rendered more secure by an exactly opposite rule? Is it possible that their private individual property can only be protected by securing to them the right to demand gold and silver in payment of their debts? and that their common treasure is to be better protected by taking this right from their servants, charged with its collection? The citizens are at liberty to receive bank paper in payment of their debts, if they think it safe to do so, and the collectors of their revenue are at liberty to receive bank paper into the public Treasury, if they think the paper safe to that Treasury. The constitution guards the former against a compulsion to take the paper; and should Congress force that compulsion upon the latter, because the constitution does not interpose to prevent it? The servants of the people in Congress or in the State Legislatures cannot force bank paper into the pockets of their constituents, in satisfaction of their debts; and should they force it into their public treasuries, in satisfaction of the dues to them? The committee can see no state of facts, or train of argument, which can reconcile these contradictions, and make the passage of this part of the resolution a public duty. Is this proposition to be adopted for the benefit of the banks, as it is seen its adoption cannot be urged as a protection to the public interests and the public treasure? Do the banks require or ask

it? The committee believe they can answer for the solvent and well-conducted banks, that they have no such need, and make no such request; that they have no desire that the currency of their notes should rest upon any stronger basis than their known ability and willingness to redeem them with gold and silver, on demand; and that they would not, if they could, have the notes of the eight or nine hundred banks of the several States made a legal tender, for any purpose. That there have been banks which required the force of law to make their notes current and valuable, recent experience has demonstrated, as, in the absence of such a law to force them upon the public, they have fallen dead and valueless upon the hands of private holders. That there may be other banks in the country which yet purport to be sound, and which still may require the aid of such a law as is here proposed, to enable them to pass off their notes for a much longer period, is very possible; but the committee sincerely hope, if such there are, that their number is small, and they are sure that none will advocate the passage of the resolution for the benefit of such banks. Of one thing they are most happy to be assured, and that is, that there are some banks in the country which require no such artificial aid; which have resumed specie payments, and are rising up, under all the embarrassments of the times, to the full performance of their whole duties to themselves and the public; and which present, to those behind them, a most worthy example of what good management and good faith can accomplish, without the aid of a law which shall compel the receipt of their paper.

Try the proposition under consideration upon the banks themselves. Would they receive each others notes at par when they were all specie-paying banks? Will a single sound bank among the whole number now consent to the passage of laws, which shall compel them to receive each others paper at par, or even to receive it at all, after they shall have resumed specie payments? Most certainly not. Then shall Congress, by its legislation, compel a credit for the notes of the banks at the Treasury, which they will not give, upon any terms, to the notes of each other? Most assuredly the banks will not have the effrontery to ask Congress to do this.

It may be said, as it has been said, that opposition to this resolution is hostility to the State banks. The committee cannot view it in that light. Is it hostility to a bank to decline to make its notes receivable, by the force of law, in the payment of debts? Have the rights of private incorporations become already so far advanced in our free country? Are we compelled to pass laws to force off their notes, or be warred upon by these institutions? Have the rights of corporators become already so far paramount to the rights of the individual citizen, that we must so frame our laws as to compel the promises of the one to be received at our Treasury, while we exact the money from the other, or be set down enemies to the corporations, meriting their vengeance? Is it a crime against the banks to object against making that a legal tender at the public Treasury, which the banks will not recognise to be a currency at their counters? No! The condition of the American legislator has not yet become so degraded. The banker, deserving the name, who appreciates the privileges conferred upon him by law in the charter of his bank, and feels the obligations which attend upon his profession; who can content himself with reasonable gains, and admits that he is not, more than the private citizen, exempt from the common moral obligation of paying his debts when he is able to do so, will interpose no such claims, and ask no such protection for his credit. He will

applaud the legislator for passing such laws as will protect private rights, private property, the public interests of his constituents, and public liberty, even though some of those laws should be intended to restrain the abuses of banking. He will not consider efforts to protect the public morals and the interests of the whole people against any and all threatened dangers, as hostile to him, or his bank; and if such a charge is to come from those engaged in the business of banking, it is to be looked for from those only who are conscious of a weakness requiring the aid of laws such as that now proposed; from those who have enjoyed the monopoly of having their notes exclusively made the legal currency of the public Treasury, until the wealth and power acquired from too much public patronage and favor, have emboldened them to demand as a right, in all situations, the exclusive privileges which were only accorded to relations the most intimate, and interests perfectly identical between them and the public; or from those whose habit of leaning upon the public Treasury for support has become so confirmed that that support is rendered essential to healthful existence. To such, the refusal to pass this part of the resolution may seem a hostile act, not because they believe they possess the right to demand the protection, but because they feel its necessity too deeply to be able to reason as to the right.

It may be said, as it has been said, that the Government is believed to be hostile to the State banks, and that this provision of the resolution should be passed to rebut so injurious a presumption. The foundation for this suggestion, and the character of the remedy recommended for the supposed evil, deserve some examination, that the public mind may be disabused upon both points.

First, then, what foundation is there for the allegation that the Government is hostile to the State banks, and is prosecuting an exterminating war against them? Previous to the month of October, 1833, all the connexion which had existed between the Government of the United States and the banks chartered by the States, for a term of nearly eighteen years, had been prescribed, formed, and conducted by and through the Bank of the United States, acting as the fiscal agent of the Treasury of the United States. The committee, in a former part of this report, have shown what that connexion was, and how far it extended. It consisted in the reception, by the Bank of the United States and its branches, "in payment of the revenue of the United States," of the notes of such State banks as "redeemed their engagements with specie," and were "located in the city or place" where the receiving bank or branch was located, and of the return of those notes to the State bank which issued them, "at least once in every week," *to be redeemed with specie.* This was the character and extent of the connexion between the public Treasury and the local banks, under the fiscal management of the Bank of the United States. To prepare for the expiration of the charter of that bank, and for the winding up of its affairs as a national bank, an institution which public opinion had clearly indicated was not to have existence in this country after the expiration of that charter, the Secretary of the Treasury, under the direction of the President, ordered the public money, from and after the 1st day of October, 1833, to be made in certain designated State banks, and not in the Bank of the United States. This was the commencement of a more extensive, intimate, and responsible connexion between the Government and the local banks. It was matured and continued by Executive direction, without any definitive action on the

part of Congress, until the 23d day of June, 1836. In the mean time, this action on the part of the Executive branch of the Government, was most loudly complained of, as exhibiting a spirit of favoritism towards the local banks, dangerous to the public treasure of the nation, destructive of public confidence, and consequently of public and private credit; as rendering certain the entire prostration of business, and the dissemination of distress and bankruptcy throughout the land. The public revenue, however, continued to accumulate with a rapidity theretofore unexampled, and business took a sudden impetus, which drove it from a state of healthful and vigorous to one of wild and feverish action in the space of less than two years. These appearances filled the minds of many of the friends of the policy of the Executive with anxiety and concern, while the complaints of the opponents of the policy were changed to the dangers impending over the numerous millions of the public money in the insecure banks; the improper uses to which the money was applied by the institutions; the certainty of fatal derangements in the paper currency to be caused by the excesses; and the like. At this crisis, and on the 23d day of June, 1836, the act was passed entitled "An act to regulate the deposites of the public money." That act legalized the connexion between the Government and the banks, and prescribed regulations of law for its future continuance. Still the unnatural accumulations of revenue continued in a manner to alarm the minds of all, and to furnish the most conclusive evidence of fearful excesses in banking, and in the use of credits generally. The deposite act proposed no check to this state of things, so far as the public revenue was concerned, though it did provide another, and what Congress considered a safer, mode of keeping the vast amount of treasure collected and collecting. No other action of Congress provided this check, and as much the greatest excess of collections was coming in from the lands, after the adjournment of Congress, on the 4th of July, 1836, and on the 11th day of that month, the Secretary of the Treasury, under the direction of the President, issued the order respecting the medium in which payments for lands would, after certain periods named, be required to be made. This order first changed the tone of complaint from that of favoritism on the part of the Government towards the local banks, to that of deadly hostility against them. Time passed on, however, and Congress met and adjourned again, and no law was passed affecting the collection of the revenue in any of its branches. The order had had the effect to diminish to some extent, but to a much less extent than was anticipated by its friends and predicted by its opponents, the sales of the public lands, and to lessen, in the same proportion, the accumulation of revenue from that source. By this time, also, unequivocal evidences of a general business and commercial revulsion were exhibiting themselves, not only throughout this country, but most of the commercial countries of Europe, and so rapidly did the change sweep on that, before the expiration of the month of May, 1837, with a few unimportant exceptions, all the banking institutions of the United States were induced to suspend the payment of their notes in specie.

This produced a new and embarrassing state of things for the Government. All the means of the Treasury to meet the current expenditures of the country were on deposite in the banks, and they were, by law, the depositories of the accruing revenue. Still the act making them so prohibited the selection, as depositories, of any but specie-paying banks, and made it the imperative duty of the Secretary of the Treasury to

discontinue any bank as a depository which should "at any time refuse to pay its own notes in specie if demanded," and to "withdraw from it the public moneys which it may hold on deposite at the time of such discontinuance." The deposite banks, therefore, were all to be instantly discontinued, and the country presented no others which could be selected, because it presented no specie-paying banks. Hence other depositories, different from, and independent of, the banks, were to be constituted, and, as a natural and almost necessary consequence, the officers of the Government, charged with the collection of the public dues, were charged also with the keeping of the money collected, until it was required for disbursement. Another duty of the Secretary of the Treasury, made equally imperative by the deposite law, was promptly to withdraw from the banks, which had been depositories and were discontinued, the public moneys held by them on deposite at the time of their discontinuance. The performance of this duty involved greater difficulty, and, indeed, was rendered impossible. The laws which have been before referred to, the resolution of 1816 being included, limited the power as well as discretion of the Secretary of the Treasury, as to the currency or media of payment, he was at liberty to receive from the banks, or from any other public debtors; and neither that resolution, nor any of the other laws, *permitted* him to take in payments to the United States the notes of any bank which did *not* pay its notes on demand in the legal currency of the United States; while another existing law, which will be hereafter referred to, expressly prohibited him from paying out such notes. The suspension of specie payments by the banks was extended, as well to their public and private deposites as to their notes, and they, therefore, would not answer the drafts of the Treasurer in any currency or medium, which the law permitted him either to receive or disburse. The drafts of the Treasurer for the moneys held on deposite by the banks, at the time of their discontinuance as depositories, were consequently protested for non-payment and returned, and little or nothing was realized from the means on hand, at the time of the suspension, to meet the current expenses of the Government. To a very great extent, and from the operation of the same causes, the accruing revenue was cut off, and the public Treasury threatened to be left wholly without means to meet the calls upon it. The notes of the non-specie-paying banks could not be received in payment of the revenue from customs; and as the merchants could not, when their bonds fell due, obtain specie from the banks, either for the bank notes or for their own private deposites, they could not make payment, and the bonds lay over unpaid. It is true the revenue from public lands had been, for some months, collectable in specie only, except the few payments in Virginia land scrip; but the suspension by the banks put it out of the power of those wishing to purchase lands, to obtain specie, to so great an extent as to render this resource wholly inadequate to the supply of the Treasury.

Under these circumstances, the President issued his proclamation to convene Congress on the first Monday of September last. In the mean time the debtor banks and debtor merchants were in the hands of the Executive officers of the Government, and, until Congress interposed, were subject to the treatment which those officers should choose to extend towards defaulting debtors. Did they meet a spirit of hostility? Was a warlike course of measures adopted? Did they find a disposition to exterminate manifested in the lenity and forbearance extended, certainly without law,

if not against law? No such charge, or pretence, from the parties interested, has reached the committee, and certain it is that no foundation for either exists in the true history of the events.

Next in the order of time came the message of the President, communicated to Congress at the commencement of the extra session, and in this, and the annual message of December last, are supposed to be found recommendations by which to sustain this charge of hostility against the State banks.

What are these recommendations in substance? As the committe recollect and understand them, they are that the connexion which had existed between the Government and the State banks, for the time, to the extent, and in the manner before related; which had become dissolved by the action of the banks themselves, and which had proved so disastrous to both during its continuance, should not be renewed; that thereafter the money of the people should be kept and disbursed by the servants of the people, and not by the officers of private incorporations; in short, that a system for the management of the finances of the country, substantially similar to that forced upon the Government by the suspension of the banks, should be adopted. What, then, is that system? The committee believe they can answer truly that, so far as the State banks are concerned, it is a system, in its general outline and action, very similar to that prescribed and practised upon by the Bank of the United States, ameliorated by the absence of that fearful rivalship in the business of banking, which constituted the most prominent feature of that overshadowing institution; ameliorated in some other, to the State institutions, important features; and merely transferring the agency for the Treasury, from an incorporated bank, to public officers, selected and appointed according to the provisions of the constitution and the law, and responsible to the people, and the regularly constituted tribunals of the country, for their faithfulness in their trusts. A very brief analysis of the two systems, comparing the one with the other at each step of the process, will illustrate this position of the committee.

The system recommended by the President proposes to make public officers, at the points required, the fiscal agents of the Treasury, and not the State banks.

The charter of the Bank of the United States made it and its branches the fiscal agents of the Treasury, and not the State banks.

The system recommended by the President proposes that the public officers, to whom the duty shall be assigned by law, shall be the depositaries of the public money, and shall receive, keep, and disburse the same, and not the State banks.

The charter of the bank made it and its branches the depositories of the public money, and the agents of the Treasury to receive, keep, and disburse the same, and not the State banks.

The system recommended by the President necessarily excludes all use of the public money, and all business by the fiscal agents of the Treasury, which can come in competition with the business of the State banks.

The system established in and under the bank created expressly a competitor too powerful for the State banks, without any portion of the public patronage, and then threw into its lap the whole pecuniary patronage of the Government, thus placing the State banks entirely at its mercy.

The system recommended by the President does not propose so to legalize any bank notes as a currency, as to make them a tender in payment of debts at the Treasury.

The charter of the bank made all its notes "payable on demand" a tender in payment of debts at the Treasury, but did not give that preference to similar notes of the State banks.

The operation of the system recommended by the President would be to disburse, in payments to the public creditors, any notes of the State banks which should at any time be allowed to be received, and the disbursement of which the existing laws, and the choice secured to creditors, should authorize.

The practice of the bank was to disburse no bank notes but its own, and to present all the State bank notes it received in payment of the revenue, at least once in every week, to be redeemed with specie, and to receive no State bank notes in such payments, except those of the banks located at the places where the bank and its branches were located.

These points of comparison might be carried further, but the committee trust the above are sufficient for their purpose. The charge they are considering is that of hostility on the part of the Government against the State banks, as drawn from the recommendations of the President. These recommendations have, under the imposing appellation of the "Sub-Treasury scheme," been made to occupy a large share of the attention of the country, and to excite the deep alarm of a great proportion of those interested in the State banking institutions. It is not to be disguised that the strongest charges of hostility have come from those who are friendly to the system of a national bank for the management of our finances; and hence the committee have believed it fair to institute this comparison, so far as the influence of either upon the State banks is concerned, between that and the system recommended by the President. Can the friends of the former claim a superiority for their system, in the benefits conferred upon the local banking institutions? Can they claim superior exemptions from the checks and deprivations which those institutions are to experience under either system? Let the comparison answer.

In reference to any benefits anticipated from financial agencies proceeding from the Treasury, both systems are equal to the State banks. Both deprive them wholly of those benefits.

In reference to the benefits derived from the deposite and use of the public moneys, both systems are equal to the State banks; for both deprive them of those benefits.

In reference to the embarrassments proceeding from competition, the system recommended by the President is wholly favorable to the State banks. It constitutes no rival, and prevents all rivalship growing out of an exclusive use of the public money. The national bank system has for its principal object the creation of a commanding and an all powerful rival, and proposes to give it the sole and exclusive benefit of the use of the public money.

In reference to the benefits derivable from a bank circulation growing out of the management of the public finances, the system recommended by the President is also wholly favorable to the State institutions, as compared with the other. If no bank notes be received in payment of the public revenue, or disbursed to the public creditors, under this system, it will then be exactly equal, in its operation upon the State banks, with the national bank system, as, while the notes of the bank, under the latter system, are to be made a legal tender in payment of the public revenue, it is to receive in such payments the notes of no State banks which are not at its door, and cannot be presented, "at least once every week," to be redeemed with spe-

cie, a nominal favor, which can be of no practical value, and may, at periods of embarrssment, be a serious injury to the State banks, whose notes are received for such a purpose. So far as disbursements are concerned, the two systems must, upon this hypothesis, be always equal to the State banks. If, however, Congress shall permit, to any extent, or for any period of time, the receipt, or disbursement, or both, of bank notes in the management of the public revenues, the State banks, under the system recommended by the President, would have all the benefits to be derived from such permission, while the whole benefits would be exclusively confined to the national bank, under that system, the disbursements being always confined to its own notes.

Is the Government, then, justly chargeable with hostility to the State banks, because the President has recommended such a system of finance for the approbation of Congress? Can such a charge come with propriety from the friends of a national bank? The State institutions survived and prospered under the national bank system. Surely, then, under one so very similar in many of its features, and so greatly ameliorated in others, so far as its action upon them is concerned, they cannot be exterminated, nor can it be said, with reason, or fairness, that a system so ameliorated towards them, has been devised for their destruction, or recommended from an unfriendly spirit towards them.

What is required at the hands of Congress to rebut this unfounded presumption of hostility? To make the notes of the eight or nine hundred banks of the country a legal tender, so fast as those banks shall resume specie payment. Sweeping remedy, truly, for an imaginary disease. The Congress of the United States is asked to change its whole policy; to abandon the hope of extending and rendering stable and firm a specie basis for the paper currency of the country; to throw away the occasion now offered, when coin is flowing into our ports; and to adopt and legalize bank paper as the standard of currency for the National Treasury; and for what? Simply to rebut the suspicion that the Government is hostile to the banks.

It may be said that the passage of this clause of the resolution is not made desirable by this cause singly; but that the inducement it will hold out to the banks to resume specie payment, renders its passage proper and expedient. That a return to specie payments by the State banks is desirable and important to every interest, public and private, the committee know and feel; but can it be safe, or proper, for Congress to pass a law, which, so far as its action can go, shall make the currency of the country exclusively paper, as an inducement to the banks to pay specie, or rather to agree to pay specie, when specie will be no longer demanded? Is it incumbent upon Congress so to legislate as necessarily to drive all specie from the country, by interposing a legal substitute of bank paper, as a mean of enabling the banks to pay specie? Will the Senate go further, in holding out inducements to produce a return to specie payments, by way of endorsing the paper of the banks, than the States which have created them will consent to go? The committee believe that some of the States have made the notes of such of their banks receivable, by law, at the State Treasury, as are owned in part, or principally, by the State itself; thus doing, in this respect, what Congress did do, in reference to the two Banks of the United States; but it is not believed that any State has made the notes of its banks, in which the State has no interest, a legal tender in payment of debts due to itself; and

yet most of the States have legislated with express reference to their banking institutions, since the suspension of specie payments in May, 1837.

Another argument urged for the adoption of this provision is, that the times require the extension of unusual favor towards the banks. The committee have reviewed the condition of our monetary affairs in 1816, immediately after the close of the late war with Great Britain, and also the extreme indulgence which Congress could then be brought to extend to the State banks of that day; and will it be pretended that the State banks now present stronger claims upon the patronage, and favor, and indulgence of this Government than did those of 1816? There is a wide and marked difference in the relations existing between the Government of the United States and the banks in 1816 and at the present time. Then, the principal embarrassments of the banks were brought upon them by their advances to the Government, to assist it through the war; which money the Government could not pay. Now, the principal embarrassments of the Government are brought upon it, by having advanced money to the banks for safe keeping, which they cannot pay. Still, in 1816, if the construction of the resolution of that year, as given by the committee, be correct, Congress would only *permit* the reception of the notes of the banks at the Treasury, at the option of the fiscal officers of the Government, after they should have resumed specie payment. If Congress is not disposed to go further now to favor the banks than it went then, it is sufficient to say that the resolution then passed is still in force, and as applicable to banking institutions now as it was then, if they will bring themselves within its provisions; and, to allay all cause of apprehension upon the subject, either as to the understanding of the collecting officers of the Government, or as to the exercise of their discretion under that resolution, it is proper to state, that information has already reached this city that, in the few commercial towns where a resumption is known to have taken place, the notes of the resuming banks are freely received in payment of duties, postages, and all other public dues.

Is it desirable, for any purpose, that a wider circulation should be given to the notes of these specie paying banks by the action of this Government? That they should be made a legal tender in the payment of debts to the United States in all parts of the Union? The committee think this is not desirable, and would not be useful, to the banks themselves; and they are certain it would be eminently hazardous to the Treasury to give them that currency. It would almost certainly lead again to dangerous expansions on the part of the banks, and to a repetition of the present scenes of revulsion, contraction, and depression; and, were these scenes again to be repeated, and under such a law, the Government might not escape as it has lately done.

Take an instance as an illustration. Suppose the resumption to have become perfect, and that the banks are all reinstated in the public confidence, and are all believed to be "sound." The provision of the resolution then acts upon their notes with the force of law, and compels their receipt in all payments to the United States. Some one, among the whole number, gets into the hands of bad and unprincipled managers, and its powers are employed in the purchase of the public lands. Nothing is to be done but to fill up and sign a sufficient amount of its notes, and present them simultaneously at the various land offices; and before the fraud can be discovered or counteracted, any quantity of the public domain may be received in exchange for the paper, even to the last acre open for sale.

This, the committee are aware, is supposing an extreme case; but it is by presenting such to the mind, that the facility with which frauds may be practised, similar in character, but less in extent, is made apparent. And so extensive is the public domain, and so numerous the banks whose notes are to be made a legal tender in payment for them, that all must see the strongest grounds for apprehension under such a system. In the other great branch of the public revenue, the customs, frauds of this character cannot be practised, but by the aid of so much real capital as to afford a very safe protection against them. The goods must be purchased in foreign countries, where capital or solid credit only will procure them, and the paper will merely pay the duties; while in the purchase of the lands there is no other limit than the quantity of the paper made a legal tender, or the quantity of the lands in the market.

In every aspect in which the committee have been able to view this subject they see nothing but evil likely to follow from the passage of this part of the resolution; evil to the Treasury, evil to the currency generally, and evil to the banks themselves. They therefore most earnestly hope it may not receive the approbation of Congress.

The third clause of the resolution, compelling the disbursement of the bank notes, is in the following words:

"*And* (the bank notes made receivable and received) *shall be subsequently disbursed, in a course of public expenditure, to all public creditors who are willing to receive them.*"

This part of the resolution has, at least, the merit of being new, and is not, like both the other portions, a repetition of any previous action of the Senate during its present session. So far as the observation of the committee has extended, it can claim greater novelty, as they have not found any previous proposition made to Congress to *compel* the *disbursement* of bank notes in payment of the public dues. On the contrary, they have found numerous propositions, and several laws, to restrain, limit, and even prohibit disbursements in such a medium.

If the former clause of the resolution should be rejected, the committee suppose this would fall with it, as they are not prepared to expect that any will urge a compulsory provision for making the public disbursements in bank paper, more broad than the provisions of law for the reception of the same paper. Such is not the character of the proposition, as it stands in the resolution, and the Senate will not certainly be inclined, by any action on its part, to give it that character.

Upon the supposition, however, that both of the clauses should pass, and become a part of the law regulating the collection and disbursement of the public revenue, the action of the latter upon the Treasury, and the public disbursements, deserves some notice.

If the committee understand the fair construction and effect of this last clause, it would be a positive prohibition upon the fiscal officers against presenting for payment in coin at the bank which issued it, any bank note, received in conformity with the requirements of the second clause, until that note had been first offered in payment to some public creditor, and that creditor had refused, or expressed his unwillingness, to receive it. If this be the true construction of the provision, and the committee are unable to discover how the terms used, and the connection in which they are used,

can admit of any other, then it appears to them that the inconvenient consequences they will proceed to name must follow.

Take the disbursements in our Indian department, and suppose the revenue to be disbursed is paid in bank paper, as it will be very certain to be when all the bank paper of the country shall be made a tender in payment of debts at the Treasury. The annuities are to be paid to the Indians residing in the Indian Territory west of the Mississippi. The means of payment consist of that variety of bank paper which would, under such a system of finance, compose the ordinary receipts at the Treasury. The agent to make the payment must take the paper, go to the Indian country, offer his bank paper to the proper individuals of each tribe, or band, meet their refusal to receive it, as he certainly would if the Indians were left free to act, and then do what? Either return to the settlements and sell the notes for the best price they will command in coin, or seek out among the States the various banks whose notes he holds, present them at their counters for payment in coin, and make a second journey to the Indian Territory.

Take, again, the disbursements to the army. The principal part of it is always at remote frontier stations. The funds to pay the troops are, like all the other revenues, collected in indiscriminate bank paper. The paymaster is fitted out as was the Indian agent, in the supposed case, and, were the soldier to have really his free choice, would be quite as certain to meet with the same refusal to receive the paper. In that event his course would, from necessity, be the same which has been pointed out for the agent.

Take the disbursements in the naval service, and how are a portion of them to be made, without an actual violation of the spirit of this provision? At the navy yards, upon the vessels in port, and the like, the notes might be offered, or paid, as in the former cases; but they certainly could not be transported, as means, abroad to sustain the vessel and crew upon a foreign station, and the necessity of the case would compel the fiscal officers to presume a refusal, to enable them to convert the notes into current means.

These are but a few of the vast number of cases where similar difficulties would be met with; and, under those which have been enumerated, how much freedom of choice is it likely would be left to the public creditors? Take the Indian, and who does not know that the agent, situated as in the supposed case, would give him at once to understand that he *must* take the paper, or wait his, the agent's, pleasure for the specie? And who does not also know that this, to the Indian's feelings and wants, would be equivalent to saying he must take the paper or nothing, and would speedily convert him into *a public creditor, willing to receive the paper?*

So with the soldier upon a remote station. His small wages and numerous wants render the periodical rounds of the paymaster much less frequent than would be desirable to him, even if there be no question about his pay when those periods arrive; but let the paymaster offer him bank notes, and tell him, if he decline to take them, he must wait until it shall be his, the paymaster's, duty to visit the post again, and how will he choose, or rather, what choice will he have? The compulsion of debts and want must decide the question, and he too becomes a public creditor, willing to take the paper.

So with the sailor, with the laborers at the navy yards, and indeed in all branches of the public service. Let the true test be applied. Let the paying agents be sent with gold or silver and paper; let them offer

each, and ask for the choice, and then these public creditors, the classes most strongly appealing to Congress for protection, will be free to choose. And who doubts how they will choose under such circumstances? The large creditors, the banks, the merchants, and the principal contractors, may have the choice under such disbursing regulations, because they may have the means and ability to wait until the consequences of their refusal to take the paper can be obviated by its conversion; but to them this choice is of little moment in the comparison, as they are engaged in business, and located at points, where the paper, if really that of sound specie-paying banks, may be converted into coin by themselves without material delay or loss. They, too, are judges of the paper, and can gain the required information as to the soundness of the banks, and may therefore make their selections from the paper offered. Not so the Indian in the wilderness, the soldier at the frontier post, the sailor in service, or the common laborers upon the public works; and hence they can have no choice, in fact, unless the gold or silver be presented to them, with the paper, and they be permitted to make the choice between them, on the spot. This provision, as to them, would, in the judgment of the committee, operate to make the paper a tender in payment of their dues from the Government; a forced tender it is true, but none the less a tender in practice.

If the construction which the committee give to this provision be correct, it must have the following dangerous operation upon the Treasury. The paper cannot be converted into coin until it has been offered to a public creditor and declined. If, then, the receipts into the Treasury be more than are required for disbursement, it would seem to be a necessary consequence that the excess, whatever it may be, and by whomsoever kept, must be kept in the bank notes. It cannot be offered to a public creditor, because there is no public creditor, in the supposed case, to whom to offer it. It is an excess beyond the amount of money required for the payment of all the public creditors. In this respect, the provision will have the effect to repeal the second article of the fourth section of the deposite law of 1836, so far as credits to the Treasurer of the United States are concerned, in case the banks are to be again made the depositories of the public money. This section prescribes the terms upon which the banks are to receive the public money, and the first clause of the second article is in these words:

Secondly. "*To credit as specie all sums deposited therein to the credit of the Treasurer of the United States,*" *&c.;* and it would surely be a contradiction to require that to be credited "*as specie,*" which the law requires should be kept and disbursed *in paper.* The effect upon the Treasury and the banks, of requiring the revenues, and especially such surpluses as may from time to time exist, to be kept in paper, is too palpable to make it the duty of the committee to comment upon it. The risk to the public funds would be that which exists between laying up for preservation specie and bank notes, and the necessary effect upon the banks would be to induce an expansion equal to the amount of their notes known to be locked up for safe keeping in the depositories of the Government.

This provision of the resolution, also, if passed, must repeal the second section of the act entitled "an act making appropriations for the payment of revolutionary and other pensioners of the United States, for the year one thousand eight hundred and thirty-six," passed on the 14th day of April, 1836. That section is in the words following:

"SEC. 2. *And be it further enacted, That, hereafter, no bank note of a less denomination than ten dollars, and that from and after the 3d day of March, Anno Domini eighteen hundred and thirty-seven, no bank note of a less denomination than twenty dollars, shall be offered in payment in any case whatsoever in which money is to be paid by the United States or the Post Office Department; nor shall any bank note, of any denomination, be so offered, unless the same shall be payable, and paid on demand, in gold or silver coin, at the place where issued, and which shall not be equivalent to specie at the place where offered, and convertible into gold or silver upon the spot, at the will of the holder, and without delay or loss to him; Provided, That nothing herein contained shall be construed to make anything but gold or silver a legal tender by any individual, or by the United States.*"

If the second and third clauses of the resolution be read together, and the connexion between them marked, it will be seen that the third must be understood to require the disbursement of any bank notes which the second permits to be received. The last clause of the 5th section of the deposite law of 1836, prohibits the receipt, in the collection of the revenue, of any bank note of a less denomination than five dollars. It may, perhaps, be fairly questioned whether the second clause of the resolution should not be so construed as to repeal this prohibition of the deposite law, and compel the receipt of all notes, of any denomination, which any "sound bank" shall issue and make payable, and pay on demand, in the legal currency of the United States; but, without raising that question, that clause undoubtedly authorizes and compels the receipt of all notes of denominations not prohibited by that section of the deposite act, and consequently the third clause must repeal the first part of the section above quoted from the pension act, confining the disbursements to notes of higher denominations. The second provision of that section cannot stand, because this third clause of the resolution compels the *offering* of bank notes, at all places, and in payment of all public creditors, without regard to the limitations there imposed and prescribed. This covers and repeals the whole section, except the proviso; and, besides the consideration that it falls with the section, if the views entertained by the committee, as before expressed, be correct, this resolution will so operate as to make bank notes, in effect, "a legal tender" by, as well as to, "the United States."

The committee will close this report by saying that, up to this time, Congress has seemed to suppose that the tendency to use bank paper in payments *from* the United States, was sufficiently strong, without either its encouragement or compulsion; and that the safety of the public treasure, and the necessities, as well as convenience, of the public disbursements, required that the Treasurer, and his fiscal agents, should have the power, at pleasure, to convert the bank notes received in the collections of the public revenue into coin. This has ever been the power possessed by those officers, as well in reference to the notes of the two banks of the United States, the receipt of which at the Treasury was compulsory, as to the notes of the State banks, the receipt of which was merely permissive. Hence the Bank of the United States adopted and pursued the system of converting into coin "at least once every week," all the notes of State banks received by it in payments of the revenue of the United States. This practice was approved and applauded in that bank, as adding to the security of the public treasure, and

imposing a healthful and salutary check upon the local banks. Will not the same good results follow from a precisely similar practice on the part of the Treasurer of the United States, and any other fiscal agents of the Treasury which the law may appoint? Can the same act, performed by a national bank, be useful and salutary, and, performed by an officer of the Government, be evil and mischievous, and require interdiction by law? Would the public treasure, in the shape of State bank notes, be unsafe in the keeping of a national bank, and therefore require the weekly conversion of those notes into coin? And will that same treasure, in the same shape, be safe in the keeping of the State banks themselves, or in that of public officers, so as to require a prohibition against its conversion to coin, and to force its disbursement in paper in payment of the debts of the Government? These questions seem to the committee to admit of but one answer, and that answer, in substance, is, that this part of the resolution ought not to become a law.